THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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DATED: 02-11-2005

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WRIT PETITION No.23524 OF 2005

BETWEEN:

P.L.Rao . . .Petitioner

And

The Depot Manager, APSRTC, Huzurabad. . . .Respondent

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THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.23524 OF 2005

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O R D E R:

The petitioner is employed as a Driver in APSRTC. He was issued a charge sheet, dated 24-06-1993, on the ground that he was unauthorisedly absent for duties, and he was directed to explain as to why necessary disciplinary action shall not be taken against him for the lapse on his part. He stated that he submitted his explanation. Without considering the said explanation, the respondent passed an order, dated 09-11-1993, imposing penalty of stoppage of annual increment for a period of six months with cumulative effect. He challenges the same.

The only point urged by Sri P.Govinda Rajulu, learned counsel for the petitioner, is that the respondent imposed a penalty of stoppage of annual increment for a period of six months with cumulative effect, without conducting departmental enquiry. He placed reliance upon the judgment of the Apex Court in **KULWANTH SINGH GILL v. STATE OF PUNJAB** and submits that stoppage of increment is a major penalty and it cannot be imposed, except by conducting departmental enquiry.

Smt P.Rajani Reddy, the learned Standing Counsel appearing for the respondent, on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the lapse on his part is taken into account.

It is a matter of record that the respondent imposed the penalty of stoppage of annual increment for a period of six months with cumulative effect on the allegation that the petitioner was negligent in performing his duties. Though a charge sheet was issued to the petitioner before the penalty was imposed, no departmental enquiry was conducted. I n **KULWANTH SINGH GILL's case** (supra), the Supreme Court held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed, except by

conducting departmental enquiry. In view of the same, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the respondent to pass fresh orders. To avoid further delay and complication in the matter, this Court is of the view that the impugned order can be treated as the one for stoppage of annual increment for a period of six months without cumulative effect.

Hence, the writ petition is partly allowed directing that the order, dated 09-11-1993, passed by the respondent shall be treated as the one for stoppage of annual increment for a period of six months without cumulative effect. However, the petitioner shall not be entitled to any monetary benefit that had accrued up to the date of this order.

There shall be no order as to costs.

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(L.NARASIMHA REDDY, J)

2nd NOVEMBER, 2005.

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